

1907-005 Chancery Causes. Elizabeth D. Young vs. Robert W. Young &c
Lee Co.

Robinet

CA. Estate Dispute
T. Property

-Deed

To the HON.H.A.W.Skeen, Judge of the Circuit Court of Lee County:

Humbly complaining, your oratrix, Elizabeth D. Yound, respectfully represents unto your honor that she is a daughter of one Micahel Robinett and Sarah E. Robinett; that her said father was a man of considerable means, and he has along during his life time advanced to his several children both real and personal property; ~~th~~ that he on the 21st day of August, 1891 as an advancement undertook to convey to your oratrix, a certain tract of land, lying and being in Lee County, Virginia; that he procured one W.P. Duff, a neighbor and friend to prepare the deed which he intended making to your oratrix, as neither he nor his wife could read and write script; that said Duff did prepare the deed as requested by her said father, and delivered and read it to her father and mother, which as he had prepared and written it and read it was perfectly satisfactory to both, as it purported to convey the fee-simple estate in the land mentioned in the deed to your oratrix; that in a few days after said deed had been written by said Duff and delivered to the said Michael Robinett, he and the said Sarah E. Robinett went before one A.J. Litton, who was then a magistrate, and by law authorized to take the acknowledgement of deeds, and ^{signed and} duly acknowledged the said deed before the said Litton, and then shortly after having signed and acknowledged the said ~~deed~~ they delivered the same to your oratrix, without making ~~any~~ remarks or explanations, further than to say that it was a deed to a tract of land which they were giving to your oratrix; that your oratrix just supposing, after she had read it, it was written as her father and mother wanted it written, and that it expressed their desires about the matter, took it and had it recorded in the Clerk's office for Lee County, Virginia; that recently not more than two years ago, your oratrix in talking to her said father about the deed so made and delivered by her father to her, first learned it was not in accordance to his wishes and intent, and supposed conditions as to the wording of the same at the time of the making of the same; that by the face of the deed so made as

aforesaid to your oratrix, there is only a life estate conveyed to her, with a remainder over to her heirs, as will be seen from an inspection of the said deed, which is here filed as a part of this bill marked "A"; that it was the intent, belief and understanding and purpose of her said father and mother, at the time of the making and delivery of the said deed to your oratrix, they were thereby conveying to her the fee simple of the estate in the said land mentioned and described in said deed; and that he knew not said deed failed to do so, until within the last two years.

Your oratrix will further show unto your honor that after the said deed was written and prepared by the said W.P. Duff and placed in the hands of her said father, some mischievous evil minded and designing person, (but who, your orator does not know) in the granting part of the said deed, and just after the name of your oratrix, inserted and interlined the words: "during her natural life and then to revert to her heirs", all which was done without the knowledge, consent, will or procurement of the said Michael and Sarah E. Robinett, or either of them, and without the knowledge, consent or will of your oratrix: thus making the said conveyance only give your oratrix a life estate in said land mentioned and described in said deed, marked exhibit "A"; that it was the intent and purpose of the said Michael and Sarah E. Robinett at the time they made your oratrix said deed to convey to her the fee simple estate in said land; and that they nor either of them knew at the time they signed and acknowledged and delivered the same to your oratrix, that said interlined words were in said deed, but on the contrary supposed it was in the same condition as when it was written by said Duff, and that they were giving and granting thereby the fee simple estate in said land to your oratrix.

Your oratrix will further show and alledge that said interlined words are in a different ink and in a different hand writing to the residue of the same, thus showing that the deed had been tampered with some after it was written and time of delivery.

Your oratrix will further show and alledge unto your honor that she is a married woman of years old, and now has born to her six living children, whom she is advised will be her heirs on her death, to-wit: Robert M. Young, Adlie E. Young, Guy W. Young, Wm. J. Bryan Young, Sallie A. Young and Vera F. Young; and that all each of her said children are infants under ^{twenty} ~~ten~~ one years of age, the oldest being now fifteen years old and the youngest three years of age; or in case they should all be ^{without issue} dead, before your oratrix dies, then her said father would be her heir. *And that your oratrix is now in the exclusive possession of said land.*

Now the premises considered, your oratrix is advised that the said interlined words in said deed having been done by a stranger to the same, either before or after its delivery to her, and without the knowledge, consent, participation or will of the said Robinetts, or your oratrix, is a spoliation of said deed, and does not effect its legality, nor the fee simple estate of the land intended to have been conveyed thereby, and that since the said words so interlined in the same throws a cloud upon the title to the said tract of land, a court of equity will declare said words to have been a spoliation, and by proper order and decrees remove the cloud which the said words throw upon the title of her said land.

Her ~~prayer~~ prayer therefore is that the said Michael Robinett, Sarah E. Robinett, Robert M. Young, Adlie E. Young, Guy W. Young, Wm. J. Bryan Young, Sallie A. Young and Vera F. Young be made parties defendants to this bill of complaint; that said Michael and Sarah E. Robinett be required to answer this bill in proper person, but they need not do so on oath as that is waived; that since the said six children of your oratrix are infants under 21 years of age, a guardian ad litem be appointed to defend their rights and interests herein; that on the proff and final hearing of this cause, said words, "during her natural life and then to revert to her heirs" be declared to be a spoliation of her said deed, and no interest or estate in the lands mentioned and described in said deed be decreed to vest or liable to vest at any time hereafter, in all or either of said defendants or any other person by virtue of said deed except to

your oratrix; that a commissioner if deemed to be necessary be appointed to convey to your oratrix any and all interest which said defendants or either of may now or hereafter acquire in said land by virtue of said deed. And that all other, further and general relief be granted your oratrix that the nature of her cause may require to meet the necessities of equities herein. And she will ever pray, etc. May Spa. issue., etc.

Elizabeth D. Young

vs. } Rice

Robert M. Youngthal

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

The joint answer of Michael and Sarah E.Robinett to a bill of complaint filed in the Circuit court for Lee County,against them and others by Elizabeth D.Young; and for answer thereto,or to so much thereof as they are advised they should answer,they say it is true that the said complainant is the daughter of your respondents, and ~~xxxxxx~~ their codefendants are their grand-children;that they by the deed filed in said complainant's bill marked "A" conveyed to her the land mentioned and described therein;that it is true at the time they signed and delivered said deed filed with complainant's bill they thought it ~~simply~~ conveyed a fee simple estate in the land mentioned in said deed;that they nor neither of your respondents knew it had the words "DURING HER NATURAL LIFE THEN TO REVERT TO HER HEIRS" in said deed at any time before they signed,acknowledged and delivered the same to the said complainant,nor did they know that said deed had said limitation and words in it until recently,when in a conversation with the said complainant they to their surprise learned that said words were in said deed. It is further true that your respondents can not read and write script,so they are compelled to depend upon others to read script to them and to sign their names to papers,contracts and deeds. Your respondents say that it is further true that it was their intent,desire and will to convey by said deed the fee-simple estate in the land mentioned therein,and thought at the time they were making the ~~xxxx~~ said deed they were conveying to the said complainant the absolute and fee simple estate in said land. Before said deed was signed and acknowledged by them it was read to them as conveying the fee-simple estate in said land, without any limitations whatever on the same. Your respondents do not know who put said words in said deed. But whoever did do so, did it without their knowledge or consent.

Now having answered said bill,they pray to be hence dismissed,etc.

Elizabeth D. Young,

Vs. Answer of Mike &
Sarah Robinett.

Robert M. Young et als.

To the HON.H.A.W.Skeen, Judge of the Circuit Court of Lee County:

The Joint answer of Robert M.Young, Adlie F.Young, Guy W.Young, Wm.J.Bryan Young, Sallie A.Young, and Vera F.Young by W.K.Hopkins, their guardian ad litem, assigned and appointed to defend them in this suit to a bill of complaint exhibited against them and others in the Circuit Court for Lee County, by Elizabeth D.Young.

The respondents reserving to themselves the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as they are advised that it is material they should answer, by their said guardian ad litem, answer and sayd:-

That they are infants of tender years, and by reason of their infancy are incapable of understanding, or taking care of their rights and interests in said suit. They therefore, ~~pray~~ by their said guardian ad litem commend themselves and their rights and interests in said suit to the protection of the court, and pray that no decree may be pronounced therein which will tend to their prjudice. They pray that the said complainant, although their mother be required to prove the several allegations of her bill. They say they know nothing of the truth or falsity of te several allegations of the said bill.

And now having answered as fully as required, the said respondents pray that they be hence dismissed with their reasonable costs in their behalf expended, and they will ever pray, etc.

Ad Litem for said infant defendants. Guradian

Elizabeth D. Young,

Vs. Answer G.A.Litem.

Robert M. Young et als.

Elizabeth D. Young

vs. Bill in Chanc

Robert M. Young et al

Punnett Bros P.G.

1907 1st February Ruler
Bill filed legal
service of Seal accept-
ed by adult Dpt
+ D.N. or to them

" 2nd February Ruler
D.N. Confirmed +
cause set for hearing

~~for~~
clerk
at
S. A. L.
J. P.
Coners

~~4.50~~
\$5.75
15.00
5.00
.75
5.00
\$31.50

Wm. C. L. Holbrook
Nov. 7. 5

Elizabeth D.Young, Complainant,

Vs.

Decree Final.

Robert M.Young et als,Defendant.

This cause cam on again this the *19th* day of February,1907, to be further heard upon the papers formerly read therein,and the report of Commissioner E.W.Pennington and his deed to said complainant,and was argued by counsel:

On consideration of all which,and said report and deed being unexcepted to,it is adjudged,order and decreed that said report and deed to the said complainant,be and the same are hereby approved and confirmed.

It is further adjudged,ordered and decreed that said complainant pay the costs of this suit and five dollars to said E.W.Pennington for his services in making the said deed. And for which costs execution may issue in favor of the officers of this court,after 30 days from this date,if the same be not paid to those entitled. And this cause is stricken from the docket.

Elizabeth D. Young,

Vs. Decree Final.

Robert M. Young et als.

*Entered in CO. 12
8, page 258 re-*

Enter this Feb., 19th 1907

H. A. W. Siler

Judge.

Elizabeth D. Young, Complainant.

Vs.

In Chancery. Decree No.1.

Robert M.Young,at als, Defendants.

This cause came on this the 18th day of February,1907,to be heard upon the bill of the complainant,and exhibit filed therewith, the joint answer of Micahel Robinett and Sarah E.Robinett,the joint answer of Robert M.Young,Adlie E.Young,Guy W.Young,Wm.J.Bryan Young, Sallie A.Young and Vera F.Young infants by W.K.Hopkins their guardian ad litem,and general replications thereto,and the depositions of witnesses,and was argued by counsel:

On consideration of all which and from the evidence in this cause the court is of opinion that the words, "DURING HER NATURAL LIFE THEN TO REVERT TO HER HEIRS" interlined and found in the deed of said Michael Robinett and Sarah E.Robinett to the said Complainant, and dated the 21st day of August,1891,and filed with the bill of said complainant as exhibit "A",were inserted,placed and put in said deed without the knowledge,consent and will of the said Michael & Sarah E.Robinett,and without the consent,knowledge,will or participation of the said complainant,and that the said Robinetts by the said deed intended to convey to the said complainant the fee-simple estate in and to the lands,mentioned and described in said deed and the bill of the said complainant; It is therefore adjudged,ordered and decreed that said deed of said Michael Robinett and Sarah E. Robinett,dated the 21st day of August,1891,to said complainant,and recorded in Deed Book No.28,pages 45 etc.,be and is hereby reformed and made to read so as to convey to the said complainant the fee-simple estate in said land emntioned and described in said deed, and that the said words "during her natural life and then to revert to her heirs" be stricken therefrom and ever hereafter treated as a spoliation of said deed.

And in order to make more effectual this decree,it is further adjudged,ordered and decreed that E.W.Pennington,who is hereby appointed a special commissioner for the purpose will make,execute and deliver

to the said complainant a deed with covenants of special warranty to all the rights, title and interest and estate vested or contingent which the said defendants or either of them may have in and to the said tract of land, and which deed shall ever hereafter operate a complete bar to any all rights and claims of the said defendants or either of them in and to the said land, both in law and equity. And he will report his action to court as soon as practicable, and until the coming in of his report this cause is passed.

Elizabeth D. Young,

Vs. Decree No. 1.

Robert M. Young et als.

*Entered in COB.
#8, page 253 re.*

Enter this, Feb. /8 1907.

H. A. W. Siler

Judge.

===== #
Elizabeth D.Young, Complainant. #
Vs. # Depositions.

Robert M.Young, et als, Defendants #

The depositions of Michael Robinett and Sarah E.Robinett, taken before me, J.J.Yeary, a justice of the peace in and for Lee county, Virginia, by agreement, at the law office of E.W.Pennington, in the town of Pennington Gap, in Lee county, Virginia, on the 14th day of February, 1907, to be read as evidence on behalf of Elizabeth D.Young, the plaintiff in a certain suit in chancery, now pending in the Circuit Court for Lee county, Va., wherein, the said Elizabeth D.Young is complainant, and Robert M.Young et al are defendants.

Present E.W.Pennington, attorney for said plaintiff;

" W.K.Hopkins, guardian Ad litem for the infant defendants;
" Michael and Sarah E.Robinett in their own person.

The witness Michael Robinett, being duly sworn deposes as follows:

Q.1. What is your name, age, residence and occupation?

Ans. My name is Michael Robinett; I am 67 years old; I reside in Lee County, Va., on the ~~head~~ ^{about one mile below Sticklyville} waters of Wallen's creek; and I am a farmer by occupation.

Q.2. What, if any is your relationship to the parties to this suit?

Ans. The complainant is my daughter; and the all the defendants are my grand-children, except Sarah E.Robinett, and she is my wife.

Q.3. Are you the same Michael Robinett, who on the 21st day of August, 1891, by deed conveyed to said Elizabeth D.Young, the tract of land, mentioned and described in exhibit "A" filed in said complainant's bill?

Ans. I am the same man, who made that conveyance with my wife joining in the deed with me.

Q.4. What was your intent at the time you made said deed to your said daughter, as to the quantity of interest and estate you would convey to her by your said deed?

Ans. I can not read script, nor write; nor can my wife. We concluded we would give our daughter, the said Elizabeth D. Yound a piece of land so we got Capt. W. P. Duff to prepare a deed for us to her; he did prepare the deed filed with said Elizabeth's bill, and he read it to us. When he read it to us, it read to her alone and in fee-simple. Soon after Capt. Duff gave us the deed we, that is myself and wife, went to Mr. A. J. Litton's and signed and acknowledged it before him. Mr. Litton signed our names to the deed, and we made our mark on it, and then we took the deed and delivered it to our daughter, the said Elizabeth. It was my intention at the time I made said deed to convey to my said daughter, the fee-simple estate and interest in and to the land mentioned and described in the same, and I thought at the time I signed and acknowledged it, it did convey to her the fee-simple estate in the land. I did not know then, nor at the time I delivered it to her, that it had been interlined, and the words "During her natural life and then to revert to her heirs" ^{were} interlined in said deed. This interlineation was inserted in said deed by some person without my knowledge, will or consent. I did not know these words were in said deed until a long time after it had been made. At the time I delivered the deed to my said daughter, I did not explain to her that I wanted to convey to her the fee-simple estate and interest in the said land; I simply handed it to her, and told her it was a deed; she took it and said nothing at the time. At no time did I authorize any one to place said words in said deed. I don't know of my own knowledge who did ^{put} said words in said deed.

Cross Examined by W. K. Hopkins Guardian Ad Litem.

Q. 1. ~~Do~~ I understand you to say, that you gave this farm to your daughter to do as ^{she} ~~you~~ pleased with it?

Ans. Yes. I deeded it, or thought I was deeding it to her, just as if she had bought it and paid for it. I gave it to her for her own purposes, and gave it to her, just as I gave other lands to ~~other~~ my other children.

And further this deponent saith not.

attest J. J. Yeary, J. P.

Michael ^{his} Robinett
mark

Sarah A. Robinett, after being duly sworn deposes as follows:

Q.1. How old are you?

Ans. I am 62 years old to day.

Q.2. Are you the wife of Michael Robinett and the mother of said Elizabeth D. Young?

Ans. I am.

Q.3. Were you present and heard the deposition of your husband given in this case?

Ans. Yes.

Q.4. If the same question was asked as was asked him, concerning the estate you and he intended to convey by said deed to your said daughter, would answer it like your said husband?

Ans. I would. We intended to convey it just as we did to the balance of our children, and did not intend to ~~hinder~~ hinder her from selling it, if she wanted to. We did not authorize or know that the deed had been interlined and the words "During her natural life, and then to revert to her heirs" had been put in the deed. I can't read nor write.

And further this deponent saith not.

Sarah A. ^{her}Robinett
mark

Virginia,

Lee county, to-wit:

I, J. J. Yeary, a justice of the peace in and for the county and State aforesaid, do hereby certify that the foregoing depositions of Michael Robinett and Sarah A. Robinett, were duly taken, subscribed and sworn to before me, at the time and place and for the purposes, mentioned in the caption hereto.

Given under my hand this the 14th, day of February, 1907.

J. J. Yeary J.P.

Elizabeth S. Young

vs. } Depositions

Robert M. Young et al

Filed February 15 1907

H. N. C. Ewing

Adm

J. P.

754

Elizabeth D. Young Complainant.

Vs.

Report of Comr.of Deed.

Robert M.Young et als. Defendants.

To the Hon.H.A.W.Skeen, Judge of The Circuit Court of Lee County:

Your undersigned who was on the _____ day of February, 1907, appointed a special commissioner in the above styled cause to make to said complainant a deed to all the right, title, interest and estate of the said defendants or either of them ~~which~~ may have in and to the lands emntioned in said complainant's said bill and exhibit "A" filed therewith, beg leave to report that he has performed said duty, and here files the deed which he has made for the inspection and confirmation of your honor. And having done what was required of him, your undersigned commissioner, begs to releaved from further duty under said decree.

All which is respectfully submitted, This the _____ day of February, 1907.

Special Commisioner.

Elizabeth D. Young,

Vs. Report of Comr. For
Deed.

Robert M. Young, et als.

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Filed on the ^{7th} day of
Feb., 1907.

H. C. Young

Clerk

This Deed made the 21st day of August in the
year of our Lord one thousand eight hundred and
ninety one, between Michael Robinette and Sarah
his wife of the County of Lee and State of Virginia,
of the first part, and Elizabeth D. Young (wife
of Bradford Young) of the County and State
aforesaid of the second part. Witnesseth, that
for and in consideration of the love that they
bear to their child and the sum of one dollar
paid, the receipt of which is hereby acknowl-
edged, the said Michael Robinette and Sarah his
wife doth grant unto the said Elizabeth D.
Young ^{during her natural life and then to revert to her heirs} their undivided interests, with the excep-
tion of a reserved right to pump water from
a spring on the Mountain Side (reserved for the
benefit of Mattie V. Barker), in a certain tract
or parcel of land, lying and being in the county
of Lee and State of Virginia (known as a part of the
Allum tract) containing One hundred and twenty acres
and bounded as follows. To wit, Beginning
on a large Elm on the South Side of Wallums Creek
N. $44\frac{1}{2}$ W. 147 poles to a chestnut oak, a corner to the J. M.
Allum tract of land, N. $48\frac{3}{4}$ E. $44\frac{1}{2}$ poles to a stake,
S. $44\frac{1}{2}$ E. $143\frac{1}{2}$ poles to a stake on south side Wallums
Creek, S. $44\frac{1}{2}$ W. 28 poles to a stake on North side
said Creek, S. $34\frac{1}{2}$ E. 115 poles to a small locust,
S. $54\frac{1}{2}$ E. 69 poles to a stone on the top of Powells
Mountain 10 ft N. E. from a marked chestnut oak ^{over,}

S. 60 W. $49\frac{1}{2}$ poles ~~$49\frac{1}{2}$ poles~~ to a small maple,
S. 54 W. 26 poles to a stake, S. 48 W. 14 poles to
a small Black Walnut, N. 41 W. 116 poles to a
black walnut stump and bush, N. 28 W. 48 poles
to an Elm stump on a bluff, N. 44 $\frac{1}{2}$ E. 57 $\frac{1}{2}$
poles to the beginning. And the said Michael
Robinette and Sarah his wife doth grant unto the
said Elizabeth D. Young the right for a wood
road on the Ridge side across the land said
Robinette & wife deeded to Mathie T. Barker.
And the said Michael Robinette & Sarah his wife
doth Covenant that they will warrant
generally the land and road right hereby
conveyed.

Witness the following signatures and seals.

Michael ^{his} Robinett (seal)
Sarah ^{mark} ~~at her~~ Robinett (seal)
^{mark}

State of Va. Lee Co. to wit,

I A. J. Littor Justice of the peace for
the county and state aforesaid do certify that Michael
Robinette and Sarah Robinette ^{his wife} whose names are signed
to the writing above bearing date August 21st 1891,
have acknowledged the same before me in the county
and state aforesaid. Given under my hand this
21st day of August 1891. A. J. Littor J.P.

Virginia Lee county to wit:

In the office of the clerk of the said
county the 9th day of December 1891. This deed
was presented and together with the certifi-
cate thereto annexed admitted to record.

Teste John R. Gibson
clerk

(171)

Elizabeth D. Young.
From J. Scott
Michael Robinson
Recorded in Deed
Book No 28 Pages 45 &c

Filed Dec 9th 1891

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon Robert M. Young, Addie E. Young,
Levy W. Young, Wm J. Bryan Young, Ballie A. Young,
Vera A. Young, infants, and Michael Robinett
and Sarah A. Robinett

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the 1st Monday in Feby, 1907, to answer a bill in chancery exhibited against them
by Elizabeth D. Young.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 9th
day of Jan'y, 1907, and 131st year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

We hereby accept legal service of the within summons,

this the 15th day of January, 1907.

Witnessed by,

W. L. Webb

Michael Robinson and
Sarah Robinson

Elizabeth D. Young,

VS

}

SUBPOENA
IN
CHANCERY.

Robt M. Young, et al,

Pin. Bros., -p. q

To 1st Feb'y. Rules.
Circuit Court.
1907.